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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,421	10/20/2003	Steven S. Larsen	PLARSS	3835

7590 08/01/2006

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EXAMINER

DONAHOE, CASEY D

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/690,421	Applicant(s) LARSEN, STEVEN S. C	
	Examiner Casey Donahoe	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Arguments

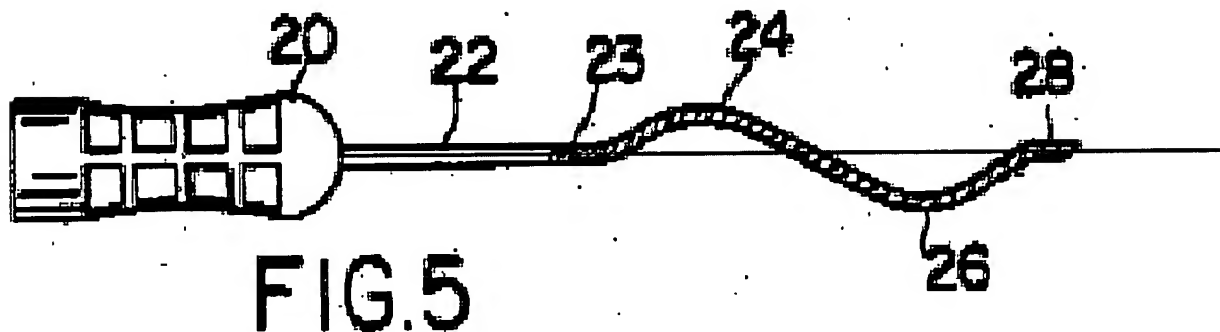
Applicant's arguments filed 5/1/2006 have been fully considered but they are not persuasive.

Regarding the rejection of claims 1, 2, 5, and 6 by Powers (US 904,990), while a slight structural difference does exist between the projections of the present invention and Powers the amended claim language has not overcome the rejection. The present invention does possess a projection, which is more blunt than that of Powers, yet seeing as how the projection of Powers does not form a positively sharp point and ends in a small flat surface (Fig. 2), the projection of Powers is still relatively "blunt" and the amended claims therefore continue to read on Powers. Although the rejection is not withdrawn additional rejections are made below to demonstrate that the structural distinction mentioned is an obvious matter of design choice, unqualified to place the present invention in condition for allowance.

Regarding the rejection of claims 3, 4, and 1-10 by Powers in view of Lovaas (US 5,197,880), Powers fails to disclose an endodontic file with a blunt cap but Lovaas does. Such blunt caps are very well known and commonly used in the art at the time of the invention, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the holder disclosed by Powers with a shape capable of accepting an endodontic file with a blunt cap, so that the holder can be used on the commonly available and widely known endodontic files used at the time of the invention.

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Furthermore, Applicant attempts to distinguish the endodontic file of the present invention from that of Lovaas by stating that the file only crosses the centerline once. However, as can be seen from the drawing below, the file of Lovaas only crosses the center line once then barely returns to the centerline without crossing it again.



Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 11, 12, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Powers (U.S. 904,990).

Regarding claims 1 and 11, Powers discloses an endodontic instrument (Figs 1-3), which comprises:

A handle (B) having an elongated base with a threaded projecting at a first end;

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And a cap (A) containing a channel extending through a first end of the cap with a first portion being threaded for mating with the projection of the elongated base of the handle; the cap possessing a side, and the cap also having a second end containing an aperture (14) through which an endodontic file can project, the diameter of the aperture being selected to be larger than the diameter of the endodontic file but smaller than the diameter of a plastic cap attached to the endodontic file.

Regarding claims 5 and 15, the aperture (14) extends to the side of the cap and on the side is enlarged (15) to dimensions sufficient to permit the introduction in the channel of the plastic cap attached to an endodontic file.

Regarding claims 2, 6, 12, and 16, the maximum outer diameter of the cap is substantially the same as the maximum outer diameter of the elongated base.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 7-10, 13, 14, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers in view of Lovaas (U.S. 5,197,880).

Powers discloses an endodontic instrument, as described above, capable of use with many endodontic files, but fails to disclose a particular endodontic file with a blunt

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plastic cap and tip, which moves away from then curves back toward a centerline which it eventually crosses. Lovass discloses a tool for crimping endodontic files, and in doing so illustrates endodontic files with the specified configuration (Fig. 5). Lovass implies that endodontic files shaped with such bowed configurations are advantageous for working on and enlarging root canals of non-linear shapes (Column 1, lines 22-27). It would have been obvious at the time of the invention to use a bent endodontic file as disclosed by Lovass in combination with the endodontic instrument disclosed by Powers, in order that such files may be used on non-linear root canals with a device that allows for ease in handling and angular adjustment of the file so it may be used more readily and with more satisfactory results (Powers, page 1, lines 9-18). Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the instrument of Powers so that it can accept the endodontic files with blunt plastic caps as disclosed by Lovaas.

Claims 1, 2, 5, 6, 11, 12, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers in view of Mosley (US 1,115,718) or Perry (US 656,300).

Powers discloses the holder described above but fails to disclose a projection, which is completely and entirely blunt with a flat end and no narrowing. However, such a projection is an obvious matter of design choice as demonstrated by the holders of Mosley (lines 27-38) and Perry (lines 50-68), which hold dental instruments with

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substantially blunt ends and still allow for angular adjustment in the same manner as Powers.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Casey Donahoe whose telephone number is (571) 272-2812. The examiner can normally be reached on Monday - Thursday (7:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272 -4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Ralph A. Lewis
Primary Examiner
AU 3732

Casey Donahoe
Examiner
Art Unit 3732

 7/24/2006